

§ 244.8 Federal National Mortgage Association and Federal Home Loan Mortgage Corporation ABS.

(a) *In general.* A sponsor satisfies its risk retention requirement under this part if the sponsor fully guarantees the timely payment of principal and interest on all ABS interests issued by the issuing entity in the securitization transaction and is:

(1) The Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation operating under the conservatorship or receivership of the Federal Housing Finance Agency pursuant to section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) with capital support from the United States; or

(2) Any limited-life regulated entity succeeding to the charter of either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation pursuant to section 1367(i) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(i)), provided that the entity is operating with capital support from the United States.

(b) *Certain provisions not applicable.* The provisions of § 244.12(b), (c), and (d) shall not apply to a sponsor described in paragraph (a)(1) or (2) of this section, its affiliates, or the issuing entity with respect to a securitization transaction for which the sponsor has retained credit risk in accordance with the requirements of this section.

(c) *Disclosure.* A sponsor relying on this section shall provide to investors, in written form under the caption “Credit Risk Retention” and, upon request, to the Federal Housing Finance Agency and the Commission, a description of the manner in which it has met the credit risk retention requirements of this part.

§ 244.9 Open market CLOs.

(a) *Definitions.* For purposes of this section, the following definitions shall apply:

CLO means a special purpose entity that:

(i) Issues debt and equity interests, and

(ii) Whose assets consist primarily of loans that are securitized assets and servicing assets.

CLO-eligible loan tranche means a term loan of a syndicated facility that meets the criteria set forth in paragraph (c) of this section.

CLO manager means an entity that manages a CLO, which entity is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (15 U.S.C. 80b-1 *et seq.*), or is an affiliate of such a registered investment adviser and itself is managed by such registered investment adviser.

Commercial borrower means an obligor under a corporate credit obligation (including a loan).

Initial loan syndication transaction means a transaction in which a loan is syndicated to a group of lenders.

Lead arranger means, with respect to a CLO-eligible loan tranche, an institution that:

(i) Is active in the origination, structuring and syndication of commercial loan transactions (as defined in § 244.14) and has played a primary role in the structuring, underwriting and distribution on the primary market of the CLO-eligible loan tranche.

(ii) Has taken an allocation of the funded portion of the syndicated credit facility under the terms of the transaction that includes the CLO-eligible loan tranche of at least 20 percent of the aggregate principal balance at origination, and no other member (or members affiliated with each other) of the syndication group that funded at origination has taken a greater allocation; and

(iii) Is identified in the applicable agreement governing the CLO-eligible loan tranche; represents therein to the holders of the CLO-eligible loan tranche and to any holders of participation interests in such CLO-eligible loan tranche that such lead arranger satisfies the requirements of paragraph (i) of this definition and, at the time of initial funding of the CLO-eligible tranche, will satisfy the requirements of paragraph (ii) of this definition; further represents therein (solely for the purpose of assisting such holders to determine the eligibility of such CLO-eligible loan tranche to be held by an